

## **Exhibit D**

TOBLER LAW OFFICE, LC

E. GREGG TOBLER  
gtobler@toblerlawoffice.net

April 19, 2017  
Via Email / First Class Mail  
KClemes@uvu.edu / MFrost@uvu.edu

Karen M. Clemes, General Counsel  
Utah Valley University  
800 West University Parkway  
Orem, UT 84058-5999

Melissa Frost, Director  
EEO/AA Title IX Office, BA-203a  
Utah Valley University  
800 West University Parkway  
Orem, UT 84058-5999

Re: Dr. Kemal Makasci – Complaints / Investigations / Suspension / Response

Dear Ms. Clemes and Ms. Frost:

I represent Dr. Kemal Makasci. Dr. Makasci is an Associate Professor in the Exercise Science Department. He has been employed by Utah Valley University since 2003. Since November 17, 2016, Dr. Makasci has been on “paid suspension” from Utah Valley University (“UVU”).

Mr. Makasci was recently informed by the EEO/AA Title IX Office that the University has made some “Preliminary Findings” with regard to a previous Complaint that was lodged against him by one or more students. As I understand it, his case reflects one or more Complaints from students alleging discriminatory or retaliatory statements or other treatment from Dr. Makasci.

In recent communications from Jedidiah Gibson (of your office) to Dr. Makasci, Dr. Makasci was invited to submit additional information and materials for consideration preparatory to issuance of a Final Decision in that matter. This is the first official contact regarding the status of the Complaint/case since he was suspended.

Dr. Makasci had also been previously invited to make an official Discrimination Complaint against his colleague and former Coordinator, Shaunna McGhie. He initially resisted making a formal Complaint against Dr. McGhie because he did not want to create waves in the Department or call undue attention to himself and his situation. However, he has since changed his mind and is in fact willing now willing to provide you with an official written Complaint.

Attached hereto is a fully-executed Complaint Form and accompanying explanatory information submitted by Dr. Makasci in support of his Complaint and allegations of disparate

treatment and discrimination at the hands of Dr. McGhie and others. Dr. Makasci was not sure how to designate the discriminatory treatment sustained by the students of Dr. McGhie. He asserts that these students have been co-conspirators in defaming him and in discriminating against him over a substantial period of time.

Dr. Makasci has kept excellent records that support his claims and Complaint. Some of the allegations against Dr. McGhie are contained in the two previous Responses submitted by Dr. Makasci (May 6, 2016 and December 16, 2016 respectively). The Complaint asserts unlawful discrimination against Dr. Makasci on the basis of national origin (Turkey), age (over 40) and religion (Muslim).

We respectfully request that you process and investigate this Complaint immediately. Some of the information and allegations in this Complaint may also explain the circumstances surrounding the previous Complaints that were unfairly leveled against Dr. Makasci. It may save time and additional expense to investigate this matter prior to issuing a final decision on the previous Complaint or Complaints against Dr. Makasci.

With regard to the allegations against Dr. Makasci, he asserts that the Complaints against him are false and have been over-emphasized and taken out-of-context. Dr. Makasci is an excellent teacher and has demonstrated that over the last 14 years with UVU. Dr. Makasci specifically maintains that, with the assistance and encouragement of Dr. McGhie, a group of students began to act disrespectfully toward him and began to disrupt his classes and to incite and conspire with other students to make false accusations and to lodge complaints against him. Upon information and belief, this information was also reported back to Dr. McGhie. This activity spanned over more than one semester and resulted in the adverse action on November 16, 2016 (Suspension). The activities of Dr. McGhie, who was supposed to be helping and assisting and supervising Dr. Makasci as his Coordinator, instead led to Dr. Makasci's suspension and removal from the University.

The November 17, 2016 letter from President Holland states that "The decision to suspend a faculty member is taken when the seriousness of the charges affects the public interest." Dr. Makasci respectfully denies that any statement he may have made to any student or class or any other action that he may have taken "affects the public interest" and that any such action would reasonably justify his suspension.

I have reviewed documentation that Dr. Makasci has provided to me and I find very little to support any claim of inappropriate, discriminatory or retaliatory behavior on his part. There is some potential that Dr. Makasci made statements that, taken out of context, could be disagreeable. But these are not statements that are inconsistent with other academic freedom language that abounds on the campus. These are not statements that many other Professors make every week. The alleged comments regarding Title IX were part of the approved course materials for the course he was teaching.